

## **EASEMENTS, LICENSES AND PERMITS**

**3344**

(Sept 1999)

### **INTRODUCTION**

**3344.1**

(Sept 1999)

The sole authority to convey permanent easements or licenses on state-owned lands lies with DGS. A minimum payment of \$500 is required to cover the administrative costs of preparing and processing all documents. If payment is not received from the grantee benefiting from the conveyance, CDF will be held responsible for the amount. Therefore, it is essential that all requests for conveyances of permanent easements or rights-of-way across state-owned lands be accompanied by this nonrefundable remittance, unless a transfer to another state agency is involved.

DGS will calculate the final fee, encompassing CDF's administrative charges, land encumbrance fees, and RESD overhead. Notice of the remaining remittance due will be forwarded to the grantee at the time the completed document is sent for the acceptance signature. This remittance must be submitted by the grantee with the return of the signed document. The grant does not become effective until state approval is given by signature of an authorized representative of DGS, and signature will not be given until all funds have been collected.

Parcels served by existing rights-of-way across state held land will not be granted additional rights-of-way when the purpose is for subdivision/rural residential development, nor will existing rights-of-way be increased to permit such development.

### **GUIDELINES**

**3344.2**

(Sept 1999)

Permanent easements across state forestlands are sometimes necessary to allow adjacent owners access to use and develop their property. The granting of permanent easements across CDF lands can influence the development of subdivision rural residential complexes, which might not hinder a facility, but are not in harmony with state forest management activities.

CDF does not support or encourage residential development within state forest boundaries or on lands contiguous with state forest boundaries. The following are guidelines to be used when considering requests for permanent easements:

- Requests for permanent easements and the widening of existing easements are to be discouraged, but may be considered when no other routing through non-state forest land is physically possible or when such other routing presents substantial and unreasonable difficulties or environmental damage.
- Requests for permanent easements must be submitted by the applicant in complete and understandable form with appropriate engineering data and plats as may be required by the director. The applicant will prepare any required environmental documents and bear all administrative costs associated with processing his easement agreement.
- Requests for permanent easements will be accompanied by a nonrefundable deposit to cover administrative and engineering costs involved in studying the requests. The deposit (\$500 as of 5-1-99) will be applied toward any fees charged if an easement agreement is consummated. This nonrefundable deposit will be forfeited by the applicant if for any reason an easement agreement is not granted by the state. All fees may be waived where reciprocity is a consideration.
- In those special cases where permanent easements are necessary for subdivision rural residential development, the easement will be accepted by the county as part of the public road system and developed to public road system standards.
- To prevent proliferation of roads and easements, parcels with multiownerships will be required to share a common easement across state forestlands if at all feasible. This may involve substantial increases in planning, negotiation, engineering and cost to the original applicant.
- To maintain control of easement use, which could lead to subdivision rural residential development, an effort will be made to formalize by agreement, any prescriptive rights to state forest roads which adjacent owners may have acquired through uncontested use.
- Permanent easement requests will be considered for only the minimum width and minimum development needed for the requested use.
- A clause will be included in all permanent easement agreements guaranteeing the state all forest management options in areas adjoining privately developed lands without interference from the grantee.
- The director will record all permanent easement agreements with the local county; however the recording is typically accomplished by the applicants.

See Lease of State Lands to Others Exhibit ([See Exhibit](#)).

## **REQUIREMENTS**

**3344.3**

(Sept 1999)

Language used and format will be that as prepared by DGS. Fees necessary for land rights will be determined by DGS.

## **USE OF CDF'S LANDS BY OTHER STATE AGENCIES**

**3344.4**

(Sept 1999)

When it is compatible with CDF's responsibilities, and when shared use can be implemented without detriment to present or planned CDF operations, it will be this agency's policy to share the use of its fee-owned lands with other state agencies.

The shared use of the site can be formally effected by means of a Cooperative Agreement.

- The aspirant agency would be the lead agency and be responsible for the preparation of the environmental CEQA compliance statement.
- The aspirant agency pays all fees and processing costs, including necessary surveys undertaken or directed by CDF.
- The documentation preparation and the processment to the various state agencies will be the responsibility of the Lands Unit of CDF.
- Shared space requests are reviewed by the Unit, with the concurrence of the regional staff.
- The state's authorization of right to permit shared space use vests with RESD.
- Processing involves the following steps:
  - The Unit and region approve the request.
  - The Lands Unit receives the request from the region together with their recommendation, location maps, and the environmental statement.
  - The Lands Unit, with assistance from RESD prepares the agreement lease document and forwards it and any appurtenant necessary to the applicant for approval.
- The applicant returns the signed document to the Lands Unit or submittal to the director for a final signature and transfer.

On receipt of the fully executed document, the Lands Unit makes proper distribution of one copy to the Aspirant Department, two copies to the region, and one copy to CDF's Accounting section along with a breakdown of administrative charges and leasing fees.

## TEMPORARY TRANSFERS

(Sept 1999)

3344.5

The granting of temporary permits for passage across state forests to forest products operators or other parties having need of them in the course of their operations is desirable when such permits do not interfere with the primary uses of state forests by the state. Applications for temporary permits for passage may be made to the Unit, which evaluates the request and forwards it to Technical Services, which is in turn guided by the following principles when submitting applications to the director of DGS for execution.

- Temporary permits for passage will be granted on a reciprocal basis where practicable.
- The state will have free use of all lands and routes over which permits for passage have been granted.
- The state will reserve the right to cross, recross, and parallel any such lands or routes with its own roads or utilities.
- Temporary permits for passage will be limited to a minimum economical width but in no case shall exceed 60 feet except for needed cuts and fills.
- The grantee of any temporary permits for passage will pay the state the current market value of timber necessarily cut or damaged in clearing and construction on state lands, provided that the price and volume will be determined by the department, and such timber when paid for will belong to the operator.
- Temporary permits for passage will be of such duration as to meet the reasonable needs of the grantee. Three year's nonuse of any permit for passage for the purpose granted will constitute an abandonment forfeiture thereof, unless the period of nonuse is otherwise agreed upon.
- The state will be reimbursed for any damage caused to state property in the construction and/or maintenance of such, provided that the grantee will hold the state harmless from any and all liability arising from the construction, maintenance and/or use of areas covered by such permits for passage.
- When it appears that benefit will result to the state, any charge for such permit for passage may be reduced accordingly.
- All slash and snags on the area covered by a permit for passage will be disposed of by the grantee in a manner approved by CDF. The grantee will have the same responsibility for fire protection on any such area as is required by the Board of Forestry for fire protection on a timber operating area.

CDF is authorized to consummate Temporary Permit Agreements for transportation of forest products across state lands without the approval of DGS, provided the following conditions are complied with:

1. The Temporary Permit Agreements are entered into on the appropriate form without change.
2. The Permit term does not exceed six months.
3. Contracts shall not exceed \$25,000 in amount.
4. The officers or employees signing on behalf of CDF are authorized to do so by the Director and shall use the following certifications:
  - a) "I hereby certify that all conditions for Exemption No. 5 have been complied with and this contract is exempt from the Department of General Services' approval."
  - b) "I hereby certify that all conditions for exemption set forth in State Administrative Manual Section 1209 have been complied with and this document is exempt from review or approval by the Department of Finance."

The signature for certification is a separate action from the authentication of contract.

5. The above exemptions are granted only on condition that the transactions bear the approval of the Director of CDF or his designated departmental representative (designated in writing).
6. Temporary Permit Agreements with counties, cities, districts, or other local public bodies, must be accompanied by a legal resolution, order, motion, or ordinance from the political subdivision authorizing the contract and executing the same.
7. Each contract must meet all criteria and conditions of the State Administrative Manual, as amended.
8. One copy of each Temporary permit Agreement, together with supporting documents, will be retained in a separate file by CDF for three years after the termination of the permit agreement, or until reviewed by DGS, whichever occurs earlier. This provision does not diminish or alter the agency's duty to retain these files for audit by the Department of Finance.

**FORMS AND/OR FORMS SAMPLES: RETURN TO ISSUANCE HOME  
PAGE FOR FORMS/FORMS SAMPLES SITE LINK.**

[\(see next section\)](#)

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